

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND
TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

§ 903. Sales and transfers

(a) The Milwaukee Railroad may negotiate and enter into agreements to sell, to another rail carrier or any other person, all or any portion of its rail properties used in railroad operations as of October 15, 1979. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 920(b) of this title, or April 1, 1980, whichever first occurs. In taking action under this subsection, the Milwaukee Railroad may consult with the Secretary of Transportation.

(b)(1) The Secretary of Transportation, under the authority of section 333 of title 49, may develop plans, participate in negotiations, and recommend to the trustee proposals for the sale or transfer of any rail properties of the Milwaukee Railroad which are used in rail operations as of October 15, 1979. In taking action under this paragraph, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) Any sale or transfer proposal developed under paragraph (1) of this subsection shall be submitted to the bankruptcy court. Such a proposal may in no event become final or effective until the occurrence of an event described in section 920(b) of this title, or April 1, 1980, whichever first occurs.

(Pub. L. 96-101, § 4, Nov. 4, 1979, 93 Stat. 737.)

CODIFICATION

In subsec. (b)(1), "section 333 of title 49" was substituted for "section 5(a)-(e) of the Department of Transportation Act [49 U.S.C. 1654(a)-(e)]", on authority of Pub. L. 97-449, § 6(b), Jan. 12, 1983, 96 Stat. 2443, the first section of which enacted subtitle I (§101 et seq.) and chapter 31 (§3101 et seq.) of subtitle II of Title 49, Transportation.

§ 904. Court approved abandonments and sales

(a) Abandonment of lines of railroad under section 1170 of title 11

(1) Upon the occurrence of an event described in section 920(b) of this title, or on April 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this sec-

tion, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347¹ of title 49.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b) Sale or transfer of lines of railroad

(1) Upon the occurrence of an event described in section 920(b) of this title, or on April 1, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of a line of the Milwaukee Railroad to be used in continued rail operations, subject to the approval of the Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest² of employees as that required under section 11347¹ of title 49.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5. An application may be initiated with the Commission prior to the date specified in paragraph (1) of this subsection.

(3) Pending review of an application by the Commission pursuant to paragraph (2) of this subsection, the bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service as a common carrier over the lines to be purchased, without regard to section 10901 of title 49. In operating such service, the purchasing carrier shall use employees of the Milwaukee Railroad to the extent necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Effect on priorities and timing of employee protection payments

Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this chapter.

(Pub. L. 96-101, § 5, Nov. 4, 1979, 93 Stat. 737.)

REFERENCES IN TEXT

Section 11347 of title 49, referred to in subsecs. (a)(1) and (b)(1), was omitted in the general amendment of

¹ See References in Text note below.

² So in original. Probably should be "interests".